IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11311 of 2000

with

CIVIL APPLICATION NOs.2983/2001 & 2805/2002

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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DAJIBHAI KANJIBHAI TANDEL

Versus

COMPETENT AUTHORITY (SAFEMA)

Appearance:

MR RS SANJANWALA for Petitioner No. 1

MR DN PATEL for Respondent No. 1

NOTICE SERVED BY DS for Respondent No. 1

MR SJ DAVE for Respondent No. 2-3

CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 23/04/2002

COMMON ORAL JUDGEMENT

1. The present petition is filed by the petitioner

under Article 226 of the Constitution of India challenging the show cause notice issued by the competent authority under Sections 6 as well as Section 15 of the SAFEMA Act.

2. According to the learned counsel for the petitioner the detention order has been quashed and set aside/revoked and/or is illegal therefore, the detaining authority is not entitled to issue show cause notice under Section 6 or 15 of the SAFEMA Act.

3. The competent authority has filed detailed reply and objected the contentions raised by the petitioner.

4. However, learned counsel for the petitioner seeks permission to withdraw this petition with a view to approach the competent authority with a liberty to raise all the contentions before the competent authority, including preliminary contentions and challenge to the detention order which the petitioner has raised in the present petition.

5. Permission as prayed for is granted. This petition stands disposed of as withdrawn. Rule is discharged. Interim relief granted earlier stands vacated. In case of filing of an appeal by the petitioner, the competent authority is directed to directed to decide the same on merits irrespective of the withdrawal of this petition. If any order is passed by the competent authority against the petitioner, then in that event, the petitioner shall be at liberty to challenge the same before this court on all points including the validity of detention order. At this stage, learned counsel for the petitioner requests that the petitioner may be protected for a period of 15 days after the date of decision of the competent authority, for which the other side has raised strong objections. However, in the SAFEMA Act itself there is a provision that the judgement and order of the competent authority is appealable. Hence, there is no need to pass any order to that effect.

6. In view of the withdrawal of the main petition, Civil Application Nos.2983 of 2001 and 2805 of 2002 do not survive and are disposed of accordingly.

(R.P.DHOLAKIA,J.)

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